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10/564,455

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EXAMINER

HIJAZ, OMAR F

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3633

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/564,455	Applicant(s) VAN OPHOVEN, RAYMOND WILHELMUS GERARDUS	
	Examiner OMAR HIJAZ	Art Unit 3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>04/06/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This communication is a first Office Action Non-Final rejection on the merits. Preliminary amendment received on January 12, 2006 has been acknowledged, claims 1-20 are cancelled and new claims 21-40 are now pending, and have been considered below.

Specification

1. The disclosure is objected to because of the following informalities: the recitations "support elements" throughout the specification are consistently referring to two different elements of the invention labeled as 31 and 33 in the drawings. It is therefore difficult to distinguish which item is being referred to in the specification and claims.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 30, 33, 36, and 38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 30, 36, and 38, the recitation "preferably" renders the claim indefinite because it fails to further limit the claim.

Claim 33 contains the trademark/trade name Velcro. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or

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product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe the connector means and, accordingly, the identification/description is indefinite.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 21, 24-25, 27, 29-32, 35, and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Yeung (U.S. Patent No. 5,507,674).

As per claim 21, Yeung teaches at least one support element (triangular member; figure 8) and at least two connectors (flexible members 100) connected to the support element (as illustrated, the flexible members are connected to the triangular member; figure 9) for releasable coupling to other support elements (the members are capable of connection with other members), wherein the connectors can swivel relative to the support element (since the members 100 are flexible, they are able to swivel relative to the triangular member).

As per claim 24, Yeung teaches at least on its surface the support element is substantially resilient (the triangular members are adapted to support people performing aquatic activities; col. 1, lines 21-23; therefore it is construed that the members are substantially resilient).

As per claim 25, Yeung teaches the support element takes an inflatable form (a plurality of inflatable inner-tubes; col. 2, lines 25-27).

As per claim 27, Yeung teaches the support element comprises at least one substantially elongate rib (side edges 88).

As per claim 29, Yeung teaches the support element has a substantially fiat geometrical form (as illustrated, the side edge members have a substantially fiat geometrical form).

As per claim 30, Yeung teaches the geometrical form is a triangle, preferably an equilateral or right-angled triangle (as illustrated, the triangular member is an equilateral triangle; figure 8).

As per claim 31, Yeung teaches the connectors are substantially uniform (as illustrated, the members 100 are substantially uniform; figure 9).

As per claim 32, a connector for use in a building element (the connector is capable of being used in a building element).

As per claim 35, Yeung teaches the connector is provided with locking means (female and male members lock with one another; col. 2, lines 53-56).

As per claim 40, Yeung teaches a kit of parts for constructing a play apparatus, comprising at least one building element (triangular members; figure 9).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yeung (U.S. Patent No. 5,507,674) in view of Owens (U.S. Patent No. 5,356,354).

As per claim 22, Yeung fails to disclose the support element comprises a force conductor connecting the connectors.

Owens discloses a play assembly (abstract) with cushioning bodies 19 and a force conductor (steel tubing 14) connecting the connectors (as illustrated, the cushioning members are integrated via the steel tubing; figures 9-10).

Therefore from the teaching of Owens, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the triangular members of Yeung include the steel tubing members as taught by Owens in order to further reinforce the assembly.

As per claim 23, Yeung fails to disclose a force conductor, which is positioned substantially inside the support element.

Owens discloses a force conductor (steel tubing members), which is positioned substantially inside the support element (as illustrated, the steel tubing members are inside the cushioning members; figures 9-10).

Therefore from the teaching of Owens, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the triangular members of Yeung include the steel tubing members inside the cushioning members as taught by Owens in order to further reinforce the assembly.

8. Claims 26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yeung (U.S. Patent No. 5,507,674) in view of Kelley (U.S. Patent No. 5,733,165).

As per claim 26, Yeung fails to disclose the support element is manufactured substantially by rotation moulding of plastic.

Kelley discloses a play structure (abstract) whereby the members are manufactured substantially by rotation moulding (rotomolded polyethylene; col. 4, lines 60-62).

Therefore from the teaching of Kelley, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the triangular members of Yeung by rotomolding as taught by Owens in order to in order to facilitate reproduction.

As per claim 28, Yeung teaches the connectors are fixed to at least two end surfaces of the rib (as illustrated, the flexible members 100 are fixed to the ends of the side edges; figure 8).

9. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yeung (U.S. Patent No. 5,507,674) in view of Gordy (U.S. Patent No. 4,267,662).

As per claim 33, Yeung fails to disclose the connector comprises Velcro tape.

Gordy discloses inflatable building members (abstract) whereby the block members are connected by hook and loop elements (col. 7, lines 20-22).

Therefore from the teaching of Gordy, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the triangular members of Yeung to include hook and loop connectors as taught by Gordy in order to quickly attach the building members.

10. Claims 34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yeung (U.S. Patent No. 5,507,674) in view of Blickle (U.S. Patent No. 4,932,916).

As per claim 34, Yeung fails to disclose the connector is adapted for stackable coupling.

Blickle discloses a toy building component (abstract) with building blocks that connect to one another via a lug and opening connection (col. 1, lines 39-45; as illustrated, the blocks have similar configurations; figures 1-3; therefore it is construed that the connecting means are capable of being stacked.

Therefore from the teaching of Blickle, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the connecting means of the triangular members of Yeung with a stackable type connecting means as taught by Blickle in order to form a toy building (col. 1, lines 36-38).

As per claim 36, Yeung fails to disclose the connector is adapted for a bayonet coupling, preferably a rotation-asymmetrical bayonet coupling.

Blickle discloses the building blocks have a lug and opening connection whereby the connecting lug is rotated 90-degrees (col. 1, lines 42-45).

Therefore from the teaching of Blickle, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the connecting means of the triangular members of Yeung with a connecting means that has a rotational coupling as taught by Blickle in order to prevent accidental detachment (col. 1, lines 29-35).

11. Claims 37 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yeung (U.S. Patent No. 5,507,674) in view of Pope et al. (U.S. Patent No. 5,334,098).

As per claim 37, Yeung fails to disclose a fall-absorbing base provided with at least one connector for coupling to a building element.

Pope et al. discloses a playground device with a resilient pad 50 around the base (abstract) with straps 52 connected to the frame (col. 2, lines 30-32).

Therefore from the teaching of Pope et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the assembly of Yeung to include padding with connecting members as taught by Pope et al. in order to provide a soft landing (col. 2, lines 25-28).

As per claim 39, Yeung teaches a building element comprising at least one support element (triangular member; figure 8) and at least two connectors (flexible members 100), said connectors connected to the support element for releasable coupling to other support elements (as illustrated, the members 100 are connected to the triangular members and connect with other triangular members; figure 9), wherein

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the connectors can swivel relative to the support element (since the members 100 are flexible, they are able to swivel relative to the triangular member).

Yeung fails to disclose a fall-absorbing base coupled to a building element.

Pope et al. discloses a playground device with a resilient pad 50 around the base (abstract) with straps 52 connected to the frame (col. 2, lines 30-32).

Therefore from the teaching of Pope et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the assembly of Yeung to include padding with connecting members as taught by Pope et al. in order to provide a soft landing (col. 2, lines 25-28).

12. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yeung (U.S. Patent No. 5,507,674) in view of Pope et al. (U.S. Patent No. 5,334,098), as applied to claim 37, and further in view of Wechesler (U.S. Patent No. 6,751,816).

As per claim 38, the Yeung fails to disclose the fall-absorbing base comprises a peripheral zone free of connectors.

Pope et al. discloses the padding 50 whereby the peripheral edge is free of connectors (figure 1).

Therefore from the teaching of Pope et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the assembly of Yeung to include a padding without connecting members on the peripheral edge as taught by Pope et al. in order to provide a soft landing (col. 2, lines 25-28).

In addition, the Yeung and Pope et al. combination fails to disclose the peripheral zone has a width of at least 1 meter, preferably at least 2 meters, from a periphery of the fall-absorbing base.

Wechesler discloses a mat with dimensions over 1 meter long (col. 5, lines 60-64) and 2 meters long (col. 6, lines 23-24).

Therefore from the teaching of Wechesler, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the assembly of the Yeung and Pope et al. to include a padding with dimensions over 1 and 2 meters long as taught by Wechesler in order to accommodate for a full body.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wolfe (U.S. Patent No. 5,486,127) discloses a toy assembly with connectors that rotate and lock.

Chaudoreille (U.S. Patent No. 6,711,865) discloses interlocking blocks with a twist and lock connection.

Leslie (U.S. Patent No. 5,162,007) discloses a multi -purpose mattress cushion.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMAR HIJAZ whose telephone number is (571)270-5790. The examiner can normally be reached on Mon-Fri 9:30 a.m. - 7:00 p.m. (alternating Fridays).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571)272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OFH

/Brian E. Glessner/

Supervisory Patent Examiner, Art Unit 3633